

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

484Q0297

HOUSE BILL NO. 1098

Introduced by: Representatives Hunhoff (Bernie), Moser, Steele, and Van Gerpen and
Senators Gillespie, Abdallah, Ahlers, and Garnos

1 FOR AN ACT ENTITLED, An Act to regulate state investment in certain companies
2 conducting business in Sudan.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The South Dakota Investment Council shall divest any assets in companies that
5 conduct business operations in Sudan in conformity with the Sudan Accountability and
6 Divestment Act of 2007 (Public Law 110-174). The South Dakota Investment Council shall
7 administer the provisions of this Act in conformity with the Sudan Accountability and
8 Divestment Act of 2007 (Public Law 110-174).

9 Section 2. The Office of Procurement Management may not accept bids from companies that
10 conduct business operations in Sudan. The Office of Procurement Management shall administer
11 the provisions of this Act in conformity with the Sudan Accountability and Divestment Act of
12 2007 (Public Law 110-174).

13 Section 3. The provisions of sections 1 and 2 of this Act do not apply to any company if the
14 company:

15 (1) Adopts, publicizes, and implements a formal plan to cease business operations in



1 Sudan within one year and to refrain from any such new business operations; or

2 (2) Undertakes significant humanitarian efforts certified by an independent third party
3 to be substantial in relationship to size and scope the company's business operations
4 in Sudan and is of benefit to one or more marginalized populations of Sudan; or

5 (3) Through engagement with the government of Sudan, materially improves conditions
6 for the genocidally victimized population in Darfur.

7 Section 4. In order to accomplish divestiture in a prudent fiscal manner, the South Dakota
8 Investment Council may cease divestiture or may reinvest in certain companies from which it
9 has divested if clear and convincing evidence shows that the value for all assets under
10 management by the South Dakota Investment Council becomes equal to or less than 99.80
11 percent (twenty basis points) of the hypothetical value of all assets under management by the
12 South Dakota Investment Council assuming no divestiture for any company had occurred.
13 Cessation of divestiture, reinvestment, or subsequent ongoing investment is limited to the
14 minimum steps necessary to avoid the contingency set forth in this section. For any cessation
15 of divestiture, reinvestment, or subsequent ongoing investment authorized by this Act, the South
16 Dakota Investment Council shall promptly provide a written report to the Legislature setting
17 forth the reasons and justification for its decisions to cease divestiture, reinvest, or remain
18 invested in companies with certain business operation in Sudan.